

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Juan Arango	Team: Squad #09	CCRB Case #: 202005852	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/20/2020 3:22 PM, Tuesday, 09/21/2021 12:00 AM	Location of Incident: Over the phone, CCRB interview	18 Mo. SOL 5/4/2022	Precinct: 34		
Date/Time CV Reported Wed, 08/26/2020 11:23 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/26/2020 11:23 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Arianny Bernabel	21126	967772	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Arianny Bernabel	Abuse: Police Officer Arianny Bernabel refused to provide her name to § 87(2)(b)	
B.POF Arianny Bernabel	Abuse: Police Officer Arianny Bernabel refused to provide her shield number to § 87(2)(b)	
C.POF Arianny Bernabel	Discourtesy: Police Officer Arianny Bernabel acted discourteously toward § 87(2)(b)	
D.POF Arianny Bernabel	Untruthful Stmt.: On September 21, 2021, Police Officer Arianny Bernabel provided a false official statement to the CCRB.	

Case Summary

On August 26, 2020, § 87(2)(b) filed this complaint over the phone with the CCRB. On September 25, 2020, this case was reassigned to Inv. Noah Kim from Inv. Amanda Field, and on August 17, 2021, this case was reassigned to Inv. Juan Arango, after Inv. Kim's departure from the agency.

On August 20, 2020, at approximately 3:22 p.m., § 87(2)(b) called the 34th Precinct stationhouse several times to request a report number for a harassment report he filed against one of his neighbors. PO Arianny Bernabel, assigned to the 34th Precinct telephone switchboard, answered the phone call and stated her name so fast § 87(2)(b) could not understand it. § 87(2)(b) asked PO Bernabel for her name and shield number and PO Bernabel disconnected the phone call (**Allegation A: Abuse of Authority- Refusal to provide name, § 87(2)(g)** (**Allegation B: Abuse of Authority- Refusal to provide shield number, § 87(2)(g)** (**Allegation C: Discourtesy – Action, § 87(2)(g)**

On September 21, 2021, PO Bernabel provided a false official statement to the CCRB (**Allegation D: Untruthful Statement – False Official Statement, § 87(2)(g)**

The investigation did not obtain Body-Worn Camera (BWC) footage given the nature of this incident.

The investigation obtained an audio recording capturing the incident (**Board Review 01**) § 87(2)(b) was not arrested or issued any summonses.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Arianny Bernabel refused to provide her name to § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Arianny Bernabel refused to provide her shield number to § 87(2)(b)

Allegation (C) Discourtesy: Police Officer Arianny Bernabel acted discourteously toward § 87(2)(b)

It is undisputed that PO Bernabel is the officer who answered the phone at the 34th Precinct at approximately 3:22 p.m. on August 20, 2020. The investigation obtained the 34th Precinct Telephone Switchboard (T/S) Log which contains an entry made at 15:20, noting that PO Bernabel began her assignment as T/S operator (**Board Review 02**).

§ 87(2)(b) provided an audio recording which captures the allegations (**Board Review 03**). The audio recording begins with § 87(2)(b) stating that it was 3:22 p.m. on August 20, 2020 and that he has called the 34th Precinct multiple times to get a report number. § 87(2)(b) then says that he is going to call the 34th Precinct again. Between the 3:57-minute mark and the 4:18-minute mark, a female voice answers the phone and says something unintelligible. § 87(2)(b) then asks the female, "Hi, I have to ask who you are. Would you kindly give me your name and badge number?" Right after, a disconnect tone can be heard on § 87(2)(b) ends. § 87(2)(b) then says to the recorder that he would not be calling "the 34th" again and says that he will file a CCRB complaint. Right after, § 87(2)(b) says on the record that he will call a Sergeant, which he eventually does, and leave a voice message on the answering machine. After § 87(2)(b) leaves the voice message, the audio recording ends.

During her CCRB interview, PO Bernabel initially stated that § 87(2)(b) asked for her shield number but given her tenure at the NYPD at the time, she was unsure if she could provide her shield number over the phone (**Board Review 04**). As a result, PO Bernabel placed the phone call on hold and asked the Desk Sergeant at the time if she could provide her shield number over the phone. The Desk Sergeant said to PO Bernabel that she did not have to provide her shield number and to have the civilian come to the stationhouse. PO Bernabel did not remember who the Desk Sergeant was at the time. PO Bernabel then asked § 87(2)(b) to come to the 34th Precinct stationhouse if he wanted to get her shield number; to which, he got upset and said that he was

going to the stationhouse to report her. PO Bernabel explained to the investigation that she started as a police officer in January 2020 and that she had only been an officer for less than a year at the time of the incident.

After being presented with the audio recording § 87(2)(b) provided to the investigation, PO Bernabel said that § 87(2)(b) voice sounded familiar to her, confirmed this was her voice answering the phone call and acknowledged that the phone call ended, but independently said that she did not disconnect it. PO Bernabel denied refusing to provide her name to § 87(2)(b) and believed she spelled it out at some other point but did not remember when exactly. PO Bernabel repeated that she was not sure if she could provide her shield number over the phone at the time, but that she did not remember when she asked the Desk Sergeant about this matter.

Although PO Bernabel denied disconnecting the phone call on § 87(2)(b) after being asked for her name and shield number, given that the phone call gave a disconnect tone on § 87(2)(b) end and PO Bernabel was using a landline at the time, which could not have been disconnected otherwise, the investigation determined that PO Bernabel disconnected the phone call.

NYPD Patrol Guide Procedure 203-09 (Board Review 05) - Courteously and clearly state your rank, name, shield number and command, or otherwise provide them, to anyone who requests you to do so.

NYPD Patrol Guide Procedure 200-02 (Board Review 06) – Officers must treat every citizen with compassion, courtesy, professionalism, and respect.

Although PO Bernabel claimed that she was unsure as to whether she could provide her shield number over the phone because of her tenure at the time and was told that she did not have to, PO Bernabel had successfully completed her training at the NYPD Academy, had been in the force for several months and had the obligation to be familiar with the NYPD Patrol Guide Procedure 203-09. In addition, the audio evidence does not support her claim that she did not provide her information because her supervisor told her that she did not have to and that she intentionally disconnected the call. § 87(2)(g)

Allegation (D) Untruthful Statement: On September 21, 2021, Police Officer Arianny Bernabel provided a false official statement to the CCRB.

During her CCRB interview on September 21, 2021, PO Bernabel initially testified that § 87(2)(b) asked for her shield number but given her tenure at the NYPD at the time, she was unsure if she could provide her information over the phone so she placed the phone call on hold and asked the Desk Sergeant. The Desk Sergeant said to PO Bernabel that she did not have to provide her shield number and told her to have the civilian come to the stationhouse (**Board Review 04**). PO Bernabel then asked § 87(2)(b) to come to the 34th Precinct stationhouse if he wanted to get her shield number; to which, § 87(2)(b) responded that he was going there to report her.

After being presented with the audio recording of their conversation, which revealed that PO Bernabel disconnected the call immediately after § 87(2)(b) asked her for her name and shield number, PO Bernabel still denied disconnecting the phone call. PO Bernabel denied refusing to provide her name to § 87(2)(b) and said she spelled it out at some other point but did not remember when exactly. PO Bernabel repeated that she was not sure if she could provide her shield number over the phone at the time, but that she did not remember when she asked the Desk Sergeant about this matter.

Per *NYPD Administrative Guide Procedure 304-10 (Board Review 10)*, an officer is prohibited from intentionally making a false official statement. A false official statement is defined as, “an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made.”

While the investigation could not confirm whether PO Bernabel provided her name to § 87(2)(b) during another phone call or whether she was told at another time by a supervisor not to

- § 87(2)(b)
[REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
- PO Bernabel has been a member-of-service for two years and this is the first CCRB complaint to which she has been a subject.

- § 87(2)(b) declined to mediate this complaint.
- As of November 9, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**Board Review 09**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Reviewer: _____

_____ Signature	_____ Print Title & Name	_____ Date
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